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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,314	08/25/2000	Andrej Gregov	249768045US	6403
25096	7590	05/19/2005	EXAMINER	
PERKINS COIE LLP PATENT-SEA P.O. BOX 1247 SEATTLE, WA 98111-1247			LEROUX, ETIENNE PIERRE	
			ART UNIT	PAPER NUMBER
			2161	

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/648,314	GREGOV ET AL.
	Examiner	Art Unit
	Etienne P LeRoux	2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 15 February 2005.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 15,16 and 27-35 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 15,16 and 27-35 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 25 August 2000 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

***Claim Status:***

Claims 1-14, 17-20, 25, 26 are cancelled. Claims 21-24 and 36-39 are withdrawn.

Claims 15, 16 and 27-35 are pending. Claims 15, 16 and 27-35 are rejected as detailed below.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 15, 16, 27-31 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat No 6,313,745 issued to Suzuki (hereafter Suzuki).

**Claim 15:**

Suzuki discloses:

- displaying a plurality of item indications each indicating an item [item information section 116, Fig 10]
- receiving user input selecting [button designated - view recommendations, Fig 10, 120] one or more of the displayed item indications
- selecting as seed items [items in area 116 of Fig 10] the items indicated by the selected item indications

- generating a list of recommended items using the selected seed item [recommended items 118, Fig 10],
- displaying the generated list of recommended items [recommended items 118, Fig 10], where the item indications are selected by a distinguished user having a user profile containing item ratings each for a rated item, and wherein none of the set of seed items is a rated item having a rating in the user profile [seed items are not in the user profile because the user has not purchased the items brought into the fitting room nor has the user completed a survey, col 6, lines 51-60, Fig 5]

Claim 16:

Suzuki discloses:

- displaying a plurality of item indications each indicating an item [item information section 116, Fig 10]
- receiving user input selecting [button designated - view recommendations, Fig 10, 120] one or more of the displayed item indications
- selecting as seed items [items in area 116 of Fig 10] the items indicated by the selected item indications
- generating a list of recommended items using the selected seed item [recommended items 118, Fig 10],
- displaying the generated list of recommended items [recommended items 118, Fig 10], where the item indications are selected by a distinguished user having a user profile containing item ratings each for a rated item, and wherein none of the set of seed items is identified in the user profile as an item purchased by the user [seed items are not in the

user profile because the user has not purchased the items brought into the fitting room, col 6, lines 51-60, Fig 10].

Claim 27:

Suzuki discloses:

- for each of a plurality of groups of one or more products, displaying information describing products in the group [item information section 116, Fig 10],
- for each of at least a portion of the plurality of product groups, displaying in conjunction with the information describing products in the group, a control [button designated - view recommendations, Fig 10, 120] for selecting products in the group as recommendation seed, when a displayed control is selected by a user,
- adding to a list of recommendation seeds products in the group in conjunction with which the selected control is displayed, so that the list of recommendation seeds contains products in the groups whose controls are selected by the user [recommended items 118, Fig 10].

Claim 28:

Suzuki discloses generating a product recommendation based upon the list of recommendation seeds [recommended items 118, Fig 10].

Claim 29:

Suzuki discloses wherein the information displayed for a distinguished one of the product groups describes a product category containing products in the distinguished group [Fig 10, 115].

Claim 30:

Suzuki discloses wherein the information displayed for a distinguished one of the product groups describes a product genre containing products in the distinguished group [Fig 5, 40, col 6, lines 51-59].

Claim 31:

Suzuki discloses wherein a distinguished one of the product groups comprises a single product, and wherein the information displayed for the distinguished product group describes the product that comprises the product group [inherent in Fig 10 because a shopper may enter only a single item].

Claim 34:

Suzuki discloses wherein the control displayed for a distinguished product group is a button that is selected by the user by clicking the button [Fig 10, 120].

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of US Pat No 5,872,850 issued to Klein et al (hereafter Klein).

Claim 32:

Suzuki discloses the elements of claim 27 as noted above. Suzuki fails to disclose wherein a distinguished one of the product groups comprises products that are recordings of a single artist, and wherein the information displayed for the distinguished product group describes the artist. Klein discloses wherein a distinguished one of the product groups comprises products that are recordings of a single artist, and wherein the information displayed for the distinguished product group describes the artist [col 28, lines 5-19]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Suzuki to include wherein a distinguished one of the product groups comprises products that are recordings of a single artist, and wherein the information displayed for the distinguished product group describes the artist as taught by Klein for the purpose of obtaining a music recommendation [col 28, line 30]. The skilled artisan would have been motivated to improve the invention of Suzuki by increasing the commercial potential of the invention by making it applicable to a music store.

Claim 33:

Suzuki discloses the elements of claim 27 as noted above. Suzuki fails to disclose wherein a distinguished one of the product groups comprises products that are books written by a single author, and wherein the information displayed for the distinguished product group

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describes the author. Klein discloses wherein a distinguished one of the product groups comprises products that are books written by a single author, and wherein the information displayed for the distinguished product group describes the author [col 28, lines 5-19]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Suzuki to include wherein a distinguished one of the product groups comprises products that are books written by a single author, and wherein the information displayed for the distinguished product group describes the author as taught by Klein for the purpose of obtaining a literary recommendation [col 28, lines 5-19]. The skilled artisan would have been motivated to improve the invention of Suzuki by increasing the commercial potential of the invention by making it applicable to a bookstore.

5. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of US Pat No 5,897,650 issued to Nakajima et al (hereafter Nakajima), as best examiner is able to ascertain.

Claim 35:

Suzuki discloses the elements of claim 27 as noted above. Suzuki fails to disclose wherein the control displayed for a distinguished product group is a dragable portion of the information describing the product group, together with a destination region, and wherein the control displayed for the distinguished product group is selected by the user by dragging the dragable portion of the information describing the product group to the destination region. Nakajima discloses wherein the control displayed for a distinguished product group is a dragable portion of the information describing the product group, together with a destination

region, and wherein the control displayed for the distinguished product group is selected by the user by dragging the draggable portion of the information describing the product group to the destination region [Fig 2]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Suzuki to include wherein the control displayed for a distinguished product group is a draggable portion of the information describing the product group, together with a destination region, and wherein the control displayed for the distinguished product group is selected by the user by dragging the draggable portion of the information describing the product group to the destination region as taught by Nakajima for the purpose of creating a scrap book via the drag-and-drop mechanism [step 30 in Fig 23]. The skilled artisan would have been motivated to improve the invention of Suzuki such that information can be easily inputted and outputted from a document via the drag-and-drop mechanism.

***Response to Arguments***

Applicant's arguments filed 2/15/2005, have been fully considered but they are not persuasive.

**Applicant Argues:**

Applicant states in the fifth paragraph on page 7, "Embodiments of Applicant's invention are directed to, in a computing system, displaying a list of items, receiving a user selection among the items, and using the items selected by the user to generate recommendations. Claims 15 and 16 recite "displaying a plurality of item indicators" and receiving user input selecting one or more of the displayed indications." Claim 27 recites "displaying information describing products in a group" and "when a displayed control is selected by a user, adding to a

list of recommendations seeds products in the group.” In contrast, the system in Suzuki never displays a list of items in a computing system from which a user can make any selections, let alone selecting items to be used as recommendation seeds as recited.”

Examiner Responds:

Examiner is not persuaded. Applicant states on page 7 that Suzuki does not disclose the claim 15 limitation “displaying a plurality of item indicators.” Examiner is confused because above office action clearly identifies Suzuki’s disclosure in Figure 10 of a computer display with a listing of items 116. Furthermore, examiner notes Rule 37CFR 1.111(b) requires Applicant to "distinctly and specifically point out errors" in the examiner's action. Also, arguments or conclusions of Applicant cannot take the place of evidence. *In re Cole*, 51 CCPA 919, 326F.2d 769, 140 USPQ 230 (1964).

Furthermore, examiner maintains that Suzuki’s Figure 10, item 118 reads on the claim 15 limitation “generating a list of recommended items using the selected seed item.” In addition, the following disclosure by Suzuki, col 2, lines 25-40, is pertinent:

The present invention addresses and alleviates the above-mentioned deficiencies associated with the prior art. More particularly, the present invention comprises a system and method for recognizing items taken into a fitting room by a customer. Each item has an electronic tag for storing the item’s product identifier such as a UPC code or product name. Each room has an interrogator unit so that when an item is taken into the fitting room and is placed in proximity to an interrogation area defined by the fitting room’s interrogator unit, the interrogator unit receives the item’s product identifier. A processor coupled to the interrogator unit uses the product identifier to retrieve product profile information about the item, and recommends other items based on this information.

In one particular aspect of the invention, the system recommends items based on the style of the item in the fitting room. The system also recommends alternative colors for the item, and provides promotional information and information on new products associated with the item’s brand.

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Examiner maintains that applicant is in error regarding the allegation that Suzuki does not disclose recommendation seeds. The above except from Suzuki teaches that the system recommends alternatives to a shopper based on the items which the shopper has taken into the fitting room. The items which the shopper takes into the fitting room are automatically scanned and entered into the computer system and based on these items automatically entered, the computer is able to make recommendations.

Applicant Argues:

Applicant repeats the same arguments on page 8. Applicant is referred to above response by examiner. However, applicant makes the following statement I the second paragraph on page 8: “Claim 15 recites *a distinguished user having a user profile .... wherein none of the set of seed items is a rated item having a rating in the user profile.*”

Examiner Responds:

Examiner is not persuaded. The following disclosure by Suzuki, i.e., column 2, lines 45-52 reads on the claimed user profile.

In another aspect of the invention, the system maintains a purchase and trial history for each customer indicating the items that the customer has previously taken into a fitting room. The purchase and trial history further indicates whether the item has been purchased or not. The purchase and trial history data may also identify a particular employee who assisted the customer with the item.

Furthermore, Suzuki discloses in column 2, lines 40-45 that the system can recommend new products associated with the item’s brand. Clearly, new products are unrelated to the user’s profile. Examiner maintains that Suzuki reads on the claim limitation “wherein the item indications are selected by a distinguished user having a user profile ..... and wherein none of the set of seed items is a rated item having a rating in the user profile.”

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

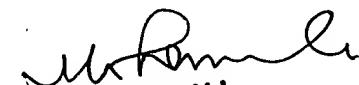
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne P LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on (571) 272-4023. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Etienne LeRoux

5/5/2005

  
MOHAMMAD ALI  
PRIMARY EXAMINER